IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE AT NASHVILLE

JANE DOE,)	
)	
Plaintiff,)	
)	
v.)	No. 3:23-cv-000965
)	
WILLIAM B. LEE, Governor of the State)	District Judge Trauger
of Tennessee, and DAVID RAUSCH,)	
Director of the Tennessee Bureau of)	
Investigation, in their official capacities,)	
)	
Defendants.)	
)	

DEFENDANTS' STATUS REPORT

Defendants provide the following status report in light of the decision of the Sixth Circuit Court of Appeals in *Does 1-9 v. Lee*, No. 23-5248 (attached as Exhibit 1). On May 15, 2024, the Sixth Circuit released its opinion in *Does 1-9*. The Sixth Circuit has resolved at least three issues that have a direct impact on this and/or other cases that have been filed in the district courts of Tennessee.

First, the Sixth Circuit held that in a suit challenging the constitutionality of the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification, and Tracking Act and its subsequent amendments, "no Article III case or controversy exists against Governor Lee." Slip Op. at 7. Neither the Governor's general "take care" power nor his power to remove officials from their posts is sufficient "to confer standing." Slip Op. at 6-7.

Second, the Sixth Circuit reaffirmed that "any provisions of Tennessee's Act analogous to those discussed in *Smith*, *Bredesen*, *and Cutshall* pass constitutional muster." Slip Op. at 11-12.

Because these requirements "are not of a type that we have traditionally considered as a punishment," . . . a registry kept by the state and disclosed publicly is constitutionally sound." Slip Op. at 12 (quoting *Doe v. Bredesen*, 507 F.3d 998, 1005 (6th Cir. 2007)).

Third, the Sixth Circuit held that "Director Rausch cannot be enjoined from enforcing provisions of the Act which he does not enforce." Slip Op. at 15. The Court held Director Rausch's responsibilities to "design[] and issu[e] forms, . . . creat[e] and maintain[] the registry database, . . . disseminat[e] information to prosecutors and law enforcement, . . . and manag[e] the repository of original registry forms . . . fall squarely within the legitimate regulatory scheme which Tennessee is constitutionally allowed to provide and maintain." Slip Op. at 14-15.

Respectfully submitted,

JONATHAN SKRMETTI Attorney General and Reporter

/s/ Liz Evan

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been filed and served via the Court's electronic filing system to the individual listed below this 22nd day of May, 2024.

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